

LEGISLATURE OF THE STATE OF IDAHO
Sixty-first Legislature First Regular Session - 2011

IN THE SENATE

SENATE BILL NO. 1018

BY COMMERCE AND HUMAN RESOURCES COMMITTEE

AN ACT

RELATING TO THE DIVISION OF HUMAN RESOURCES; AMENDING SECTION 67-5309, IDAHO CODE, TO REVISE PROVISIONS RELATING TO RULES.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 67-5309, Idaho Code, be, and the same is hereby amended to read as follows:

67-5309. RULES OF THE DIVISION OF HUMAN RESOURCES AND THE PERSONNEL COMMISSION. The administrator of the division of human resources shall have the power and authority to adopt, amend, or rescind such rules as may be necessary for proper administration of this chapter. Such rules shall include:

(a) A rule requiring the administrator, after consulting with each department to develop, adopt, and make effective, a job classification system for positions covered by this chapter, based upon an analysis of the duties and responsibilities of the positions. The job classification shall include an appropriate title for each class, and a description of duties and responsibilities of positions in the classes and the requirements of minimum training, experience and other qualifications, suitable for the performance of duties of the position.

(b) A rule describing the relevant labor markets and benchmark job classifications used in the administrator's salary surveys.

(c) A rule requiring that all classes of positions which are common to the departments concerned shall have the same titles, minimum requirements and compensation ranges.

(d) A rule providing for review by the administrator of the personnel system including classifications and compensation policies and procedures.

(e) A rule that, notwithstanding the procedure for examination and ranking of eligibles on a register provided in subsection (f) of this section, an agency may appoint an individual directly into an entrance or promotional probation if the division of vocational rehabilitation, Idaho commission for the blind and visually impaired or the industrial commission certifies, with the concurrence of division of human resources staff, that the individual (1) has a disability or handicap as defined under state or federal law; (2) is qualified to perform the essential functions of a particular classified position with or without reasonable accommodation; and (3) lacks competitiveness in the examination process due to the disability or handicap. The probationary period as provided in subsection (j) of this section shall be the sole examination for such individuals.

(f) A rule requiring fair and impartial selection of appointees to all positions other than those defined as nonclassified in this chapter, on the basis of open competitive merit examinations or evaluations. An application for an examination will be accepted after the closing date of the examination from a person who was serving in the armed forces, or undergoing ser-

1 vice-connected hospitalization up to one (1) year following discharge. The
2 application must be submitted within one hundred twenty (120) days of sepa-
3 ration from the armed forces or hospitalization and prior to the expiration
4 of the register established as a result of the examination. A disabled vet-
5 eran may file an application at any time up until a selection has been made
6 for any position for which the division maintains a register as a source for
7 future job openings or for which a register is about to be established, pro-
8 vided he or she has not already been examined twice for the same position and
9 grade for which application is made, does not have current eligibility on
10 that register, or is not serving in a competitive position in the same grade
11 for which application is made. Examinations may be assembled or unassembled
12 and may include various examining techniques such as rating of training and
13 experience, written tests, oral interviews, recognition of professional li-
14 censing, performance tests, investigations and any other measure of abil-
15 ity to perform the duties of the position. Examinations shall be scored ob-
16 jectively. Five (5) percentage points shall be added to the earned rating
17 of any veteran as defined in section 65-502, Idaho Code, and the widow or
18 widower of any veteran as defined in section 65-502, Idaho Code, as long as
19 he or she remains unmarried. Pursuant to section 65-504, Idaho Code, ten
20 (10) percentage points shall be added to the earned rating of any disabled
21 veteran as defined in section 65-502, Idaho Code, the widow or widower of
22 any disabled veteran as long as he or she remains unmarried or the spouse
23 of any eligible disabled veteran who cannot qualify for any public employ-
24 ment because of a service-connected disability. Employment registers shall
25 be established in order of final score except that the names of all five (5)
26 and ten (10) percentage point preference eligibles resulting from any merit
27 system or civil service examination shall be placed on the register in ac-
28 cordance with their augmented rating. Certification of eligibility for ap-
29 pointment to vacancies shall be in accordance with a formula which limits se-
30 lection by the hiring department from among the twenty-five (25) top ranking
31 available eligibles plus the names of all individuals with scores identi-
32 cal to the twenty-fifth ranking eligible on the register. A register with at
33 least five (5) eligibles shall be adequate. Selective certification shall
34 be permitted when justified by the hiring department, under rules to be made
35 by the division defining adequate justification based on the duties and re-
36 quirements of the positions. Such examinations need not be held until af-
37 ter the rules have been adopted, the service classified and a pay plan estab-
38 lished, but shall be held not later than one (1) year after departments com-
39 mence participation in the personnel system.

40 (g) A rule that, whenever practicable, a vacancy in a classified posi-
41 tion shall be filled by the promotion of a qualified employee of the agency
42 in which the vacancy occurs. An interagency promotion shall be made through
43 competitive examination and all qualified state employees shall have the
44 opportunity to compete for such promotions. If an employee's name appears
45 within certifiable range on a current register for a higher class of posi-
46 tion, he shall be eligible for a transfer and promotion.

47 (h) A rule for development and maintenance of a system of service rat-
48 ings and the use of such ratings by all departments in connection with pro-
49 motions, demotions, retentions, separations and reassignments. The rule
50 shall require that an evaluation of each classified employee shall be made

1 after each two thousand eighty (2,080) hour period of credited state ser-
2 vice, and that a copy of the evaluation shall be filed with the division.

3 (i) A rule prohibiting disqualification of any person from taking an
4 examination, from appointment to a position, from promotion, or from holding
5 a position because of race or national origin, color, sex, age, political or
6 religious opinions or affiliations, and providing for right of appeal.

7 (j) A rule establishing a probation period not to exceed one thousand
8 forty (1,040) hours of credited state service for all appointments and pro-
9 motions, except that peace officers as defined in section 19-5101, Idaho
10 Code, shall be subject to a probation period of two thousand eighty (2,080)
11 hours of credited state service, and for the appointing authority to pro-
12 vide the employee and the administrator a performance evaluation indicating
13 satisfactory or unsatisfactory performance not later than thirty (30) days
14 after the expiration of the probationary period. The rule shall provide that
15 if the appointing authority fails to provide a performance evaluation within
16 thirty (30) days after the expiration of the probationary period, the em-
17 ployee shall be deemed to have satisfactorily completed the probation unless
18 the appointing authority receives approval from the administrator to extend
19 the probationary period for good cause for an additional specified period
20 not to exceed one thousand forty (1,040) hours of credited state service. If
21 an employee is performing in an unsatisfactory manner during the entrance
22 probationary period, the appointing authority shall ask the employee to re-
23 sign, and if no resignation is submitted, shall terminate the employment of
24 such employee without the right of grievance or appeal.

25 (k) A rule concerning provisional appointments.

26 (l) A rule concerning temporary appointments.

27 (m) A rule governing the employment of consultants and persons retained
28 under independent contract.

29 (n) A rule for the disciplinary dismissal, demotion, suspension or
30 other discipline of employees only for cause with reasons given in writing.
31 Such rule shall provide that any of the following reasons shall be proper
32 cause for the disciplinary dismissal, demotion or suspension of any employee
33 in the state classified service:

34 1. Failure to perform the duties and carry out the obligations imposed
35 by the state constitution, state statutes and rules of the employee's
36 department, or rules of the administrator or the division.

37 2. Inefficiency, incompetency, or negligence in the performance of
38 duties, or job performance that fails to meet established performance
39 standards.

40 3. Physical or mental incapability for performing assigned duties.

41 4. Refusal to accept a reasonable and proper assignment from an autho-
42 rized supervisor.

43 5. Insubordination or conduct unbecoming a state employee or conduct
44 detrimental to good order and discipline in the employee's department.

45 6. Intoxication on duty.

46 7. Careless, negligent, or improper use or unlawful conversion of state
47 property, equipment or funds.

48 8. Use of any influence which violates the principles of the merit sys-
49 tem in an attempt to secure a promotion or privileges for individual ad-
50 vantage.

9. Conviction of official misconduct in office, or conviction of any felony, or conviction of any other crime involving moral turpitude.

10. Acceptance of gifts in exchange for influence or favors given in the employee's official capacity.

11. Habitual pattern of failure to report for duty at the assigned place and time.

12. Habitual improper use of sick leave privileges.

13. Unauthorized disclosure of confidential information from official records.

14. Absence without leave.

15. Misstatement or deception in the application for the position.

16. Failure to obtain or maintain a current license or certificate lawfully required as a condition for performing the duties of the job.

17. Prohibited participation in political activities.

(o) A rule to establish procedures for maintenance of a record of the employment history and appropriate information relating to performance of all employees under the personnel system. For the purposes of this rule, the state shall be considered one (1) employer.

(p) Rules to provide for recruitment programs in cooperation with department heads and the employment security agency in keeping with current employment conditions and labor market trends.

(q) Rules to establish procedures for examinations as necessary for the purpose of maintaining current registers from which to fill employment vacancies.

(r) Other rules not inconsistent with the foregoing provisions of this section as may be necessary and proper for the administration and enforcement of this chapter.

(s) A rule concerning "project exempt" appointments.

(t) Rules relating to leave for state employees from official duties including, but not limited to, sick leave, military leave, jury duty, leaves of absence without compensation and such other forms of absence from performance of duties in the course of state employment as may be necessary.

(u) A rule providing up to twenty-five percent (25%) shift differential pay based on local market practices.

(v) A rule to establish guidelines for awarding employee suggestion awards set forth in sections 59-1603 and 67-5309D, Idaho Code.

(w) A rule to establish the reimbursement of moving expenses for a current or newly-hired state employee.

(x) A rule to allow, at the request of the hiring agency, temporary ~~and acting appointment~~ service time to count toward fulfilling entrance probationary requirements as established in subsection 67-5309 (j), Idaho Code of this section.

(y) A rule to allow, at the request of the hiring agency, acting appointment service time to count toward fulfilling promotional probationary requirements as established in subsection (j) of this section.